IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

:::

ORDER

Babu Lal
Vs.
Judge, Labour Court & Ors.

S.B. CIVIL WRIT PETITION NO.3179/2003 UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA.

DATE OF ORDER :: 22nd December, 2006

PRESENT

HON'BLE JUSTICE SHRI MOHAMMAD RAFIQ

Mr.M.S Panwar, Advocate, for the petitioner.
Mr. Ashok Chhangani, Advocate, for the respondents.

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BY THE COURT:

The petitioner has challenged the award dated 20.1.2003 whereby the learned labour court has held that the petitioner could not prove his removal from service of the respondents w.e.f. 1.11.1986 and moreover, the petitioner also could not explain as to why he raised the industrial dispute after delay of almost 13 years. According to the petitioner he was

retrenched from service of the respondents from 1.11.1986, reference was made by the appropriate Government to the labour court by notification dated 9th Sept., 1999.

I have heard learned counsel for the parties and perused the record.

A bare perusal of the award indicate that the learned labour court has examined the case on the merits inspite of the fact that the industrial dispute was raised enormously delayed by 13 years from the date of alleged retrenchment. The learned labour court held that the petitioner could not prove that he worked with the respondents for 240 days in the calender year immediately preceding the date of his alleged retrenchment on 1.1.1986. Even though the petitioner raised the dispute enormously delayed, the respondents in all fairness have given complete details about his working with them in para no.8 of their reply to the statement of claim. According to this, the petitioner worked for 142 days and 135 days respectively in the year 1985 and 1986. Even if the date of

retrenchment of the petitioner as disclosed in the terms of reference i.e., 1.11.1986 is accepted, the petitioner has not been able to prove before the learned labour court that he has worked for 240 days in the calender year preceding the date of his retrenchment. It is settled proposition of law that burden to prove working of 240 days for compliance of Section 25 is on the workman. The petitioner has measurably failed to prove this fact and the finding recorded by the learned labour court on that aspect cannot be said to be perverse or erroneous besides the petitioner has not given any explanation whatsoever as to how he has raised industrial dispute enormously delayed by 13 years.

In the facts of this case, I do not find any error apparent on the face of record in the award passed by the learned labour court. The writ petition is accordingly dismissed with no order as to costs.

(MOHAMMAD RAFIQ),J.

c.p.goyal/-